

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1392 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005,
- 4 SECTION 69, IS AMENDED TO READ AS FOLLOWS
- 5 [EFFECTIVE JANUARY 1, 2007]: Sec. 3.5. When used in this article,
- 6 the term "adjusted gross income" shall mean the following:
- 7 (a) In the case of all individuals, "adjusted gross income" (as defined
- 8 in Section 62 of the Internal Revenue Code), modified as follows:
- 9 (1) Subtract income that is exempt from taxation under this article
- 10 by the Constitution and statutes of the United States.
- 11 (2) Add an amount equal to any deduction or deductions allowed
- 12 or allowable pursuant to Section 62 of the Internal Revenue Code
- 13 for taxes based on or measured by income and levied at the state
- 14 level by any state of the United States.
- 15 (3) Subtract one thousand dollars (\$1,000), or in the case of a joint
- 16 return filed by a husband and wife, subtract for each spouse one
- 17 thousand dollars (\$1,000).
- 18 (4) Subtract one thousand dollars (\$1,000) for:
- 19 (A) each of the exemptions provided by Section 151(c) of the
- 20 Internal Revenue Code;
- 21 (B) each additional amount allowable under Section 63(f) of
- 22 the Internal Revenue Code; and
- 23 (C) the spouse of the taxpayer if a separate return is made by
- 24 the taxpayer and if the spouse, for the calendar year in which
- 25 the taxable year of the taxpayer begins, has no gross income

- 1 and is not the dependent of another taxpayer.
- 2 (5) Subtract:
- 3 (A) one thousand five hundred dollars (\$1,500) for each of the
- 4 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 5 Revenue Code for taxable years beginning after December 31,
- 6 1996; and
- 7 (B) five hundred dollars (\$500) for each additional amount
- 8 allowable under Section 63(f)(1) of the Internal Revenue Code
- 9 if the adjusted gross income of the taxpayer, or the taxpayer
- 10 and the taxpayer's spouse in the case of a joint return, is less
- 11 than forty thousand dollars (\$40,000).
- 12 This amount is in addition to the amount subtracted under
- 13 subdivision (4).
- 14 (6) Subtract an amount equal to the lesser of:
- 15 (A) that part of the individual's adjusted gross income (as
- 16 defined in Section 62 of the Internal Revenue Code) for that
- 17 taxable year that is subject to a tax that is imposed by a
- 18 political subdivision of another state and that is imposed on or
- 19 measured by income; or
- 20 (B) two thousand dollars (\$2,000).
- 21 (7) Add an amount equal to the total capital gain portion of a lump
- 22 sum distribution (as defined in Section 402(e)(4)(D) of the
- 23 Internal Revenue Code) if the lump sum distribution is received
- 24 by the individual during the taxable year and if the capital gain
- 25 portion of the distribution is taxed in the manner provided in
- 26 Section 402 of the Internal Revenue Code.
- 27 (8) Subtract any amounts included in federal adjusted gross
- 28 income under Section 111 of the Internal Revenue Code as a
- 29 recovery of items previously deducted as an itemized deduction
- 30 from adjusted gross income.
- 31 (9) Subtract any amounts included in federal adjusted gross
- 32 income under the Internal Revenue Code which amounts were
- 33 received by the individual as supplemental railroad retirement
- 34 annuities under 45 U.S.C. 231 and which are not deductible under
- 35 subdivision (1).
- 36 (10) Add an amount equal to the deduction allowed under Section
- 37 221 of the Internal Revenue Code for married couples filing joint
- 38 returns if the taxable year began before January 1, 1987.
- 39 (11) Add an amount equal to the interest excluded from federal
- 40 gross income by the individual for the taxable year under Section
- 41 128 of the Internal Revenue Code if the taxable year began before
- 42 January 1, 1985.
- 43 (12) Subtract an amount equal to the amount of federal Social
- 44 Security and Railroad Retirement benefits included in a taxpayer's
- 45 federal gross income by Section 86 of the Internal Revenue Code.
- 46 (13) In the case of a nonresident taxpayer or a resident taxpayer
- 47 residing in Indiana for a period of less than the taxpayer's entire

taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take

deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-31-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-31-15(a).

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal

1 income tax purposes.

2 (c) In the case of life insurance companies (as defined in Section
3 816(a) of the Internal Revenue Code) that are organized under Indiana
4 law, the same as "life insurance company taxable income" (as defined
5 in Section 801 of the Internal Revenue Code), adjusted as follows:

6 (1) Subtract income that is exempt from taxation under this article
7 by the Constitution and statutes of the United States.

8 (2) Add an amount equal to any deduction allowed or allowable
9 under Section 170 of the Internal Revenue Code.

10 (3) Add an amount equal to a deduction allowed or allowable
11 under Section 805 or Section 831(c) of the Internal Revenue Code
12 for taxes based on or measured by income and levied at the state
13 level by any state.

14 (4) Subtract an amount equal to the amount included in the
15 company's taxable income under Section 78 of the Internal
16 Revenue Code.

17 (5) Add or subtract the amount necessary to make the adjusted
18 gross income of any taxpayer that owns property for which bonus
19 depreciation was allowed in the current taxable year or in an
20 earlier taxable year equal to the amount of adjusted gross income
21 that would have been computed had an election not been made
22 under Section 168(k) of the Internal Revenue Code to apply bonus
23 depreciation to the property in the year that it was placed in
24 service.

25 (6) Add an amount equal to any deduction allowed under Section
26 172 or Section 810 of the Internal Revenue Code.

27 (7) Add or subtract the amount necessary to make the adjusted
28 gross income of any taxpayer that placed Section 179 property (as
29 defined in Section 179 of the Internal Revenue Code) in service
30 in the current taxable year or in an earlier taxable year equal to the
31 amount of adjusted gross income that would have been computed
32 had an election for federal income tax purposes not been made for
33 the year in which the property was placed in service to take
34 deductions under Section 179 of the Internal Revenue Code in a
35 total amount exceeding twenty-five thousand dollars (\$25,000).

36 (8) Add an amount equal to the amount that a taxpayer claimed as
37 a deduction for domestic production activities for the taxable year
38 under Section 199 of the Internal Revenue Code for federal
39 income tax purposes.

40 (d) In the case of insurance companies subject to tax under Section
41 831 of the Internal Revenue Code and organized under Indiana law, the
42 same as "taxable income" (as defined in Section 832 of the Internal
43 Revenue Code), adjusted as follows:

44 (1) Subtract income that is exempt from taxation under this article
45 by the Constitution and statutes of the United States.

46 (2) Add an amount equal to any deduction allowed or allowable
47 under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in

- 1 service.
- 2 (4) Add an amount equal to any deduction allowed under Section
- 3 172 of the Internal Revenue Code.
- 4 (5) Add or subtract the amount necessary to make the adjusted
- 5 gross income of any taxpayer that placed Section 179 property (as
- 6 defined in Section 179 of the Internal Revenue Code) in service
- 7 in the current taxable year or in an earlier taxable year equal to the
- 8 amount of adjusted gross income that would have been computed
- 9 had an election for federal income tax purposes not been made for
- 10 the year in which the property was placed in service to take
- 11 deductions under Section 179 of the Internal Revenue Code in a
- 12 total amount exceeding twenty-five thousand dollars (\$25,000).
- 13 (6) Add an amount equal to the amount that a taxpayer claimed as
- 14 a deduction for domestic production activities for the taxable year
- 15 under Section 199 of the Internal Revenue Code for federal
- 16 income tax purposes.
- 17 (f) This subsection applies only to the extent that an individual paid
- 18 property taxes in 2004 that were imposed for the March 1, 2002,
- 19 assessment date or the January 15, 2003, assessment date. The
- 20 maximum amount of the deduction under subsection (a)(17) is equal to
- 21 the amount determined under STEP FIVE of the following formula:
- 22 STEP ONE: Determine the amount of property taxes that the
- 23 taxpayer paid after December 31, 2003, in the taxable year for
- 24 property taxes imposed for the March 1, 2002, assessment date
- 25 and the January 15, 2003, assessment date.
- 26 STEP TWO: Determine the amount of property taxes that the
- 27 taxpayer paid in the taxable year for the March 1, 2003,
- 28 assessment date and the January 15, 2004, assessment date.
- 29 STEP THREE: Determine the result of the STEP ONE amount
- 30 divided by the STEP TWO amount.
- 31 STEP FOUR: Multiply the STEP THREE amount by two
- 32 thousand five hundred dollars (\$2,500).
- 33 STEP FIVE: Determine the sum of the STEP FOUR amount and
- 34 two thousand five hundred dollars (\$2,500).
- 35 SECTION 2. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE
- 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 37 JANUARY 1, 2007]:
- 38 **Chapter 31. Credit for Offering Health Benefit Plans**
- 39 **Sec. 1. This chapter applies to an employer that:**
- 40 **(1) employs at least ten (10) full-time employees who are**
- 41 **located in Indiana; and**
- 42 **(2) does not offer coverage for health care services under a**
- 43 **self-funded health benefit plan that complies with the federal**
- 44 **Employee Retirement Income Security Act of 1974 (29 U.S.C.**
- 45 **1001 et seq.).**
- 46 **Sec. 2. As used in this chapter, "eligible benefits" means, with**
- 47 **respect to an employee of a taxpayer that claims a credit under**

section 9 of this chapter, the total amount of health insurance premiums not included in the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.

Sec. 3. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the first taxable year for which the taxpayer claims a credit under this chapter.

Sec. 4. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.

Sec. 5. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:

(1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or

(2) a contract with a health maintenance organization for coverage of basic health care services under IC 27-13;

that satisfies the requirements of Section 125 of the Internal Revenue Code.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy issued as an individual policy.

(5) A limited benefit health insurance policy issued as an individual policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

Sec. 6. As used in this chapter, "pass through entity" means a:

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) limited liability company; or

(4) limited liability partnership.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

1 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
 2 (2) IC 6-5.5 (financial institutions tax); and
 3 (3) IC 27-1-18-2 (insurance premiums tax);
 4 as computed after the application of the credits that under
 5 IC 6-3.1-1-2 are to be applied before the credit provided by this
 6 chapter.

7 Sec. 8. As used in this chapter, "taxpayer" means an individual
 8 or entity that:

- 9 (1) has state tax liability; and
- 10 (2) employs at least ten (10) full-time employees who are
 11 located in Indiana.

12 Sec. 9. (a) An eligible taxpayer that, after December 31, 2006,
 13 makes health insurance available to the eligible taxpayer's
 14 employees and their dependents through at least one (1) health
 15 benefit plan is entitled to a credit against the taxpayer's state tax
 16 liability for the first two (2) taxable years in which the taxpayer
 17 makes the health benefit plan available if the following
 18 requirements are met:

- 19 (1) An employee's participation in the health benefit plan is at
 20 the employee's election.
- 21 (2) If an employee chooses to participate in the health benefit
 22 plan, the employee may pay the employee's share of the cost
 23 of the plan using a wage assignment authorized under
 24 IC 22-2-6-2.
- 25 (b) The credit allowed under this chapter equals the lesser of:
 26 (1) two thousand five hundred dollars (\$2,500); or
 27 (2) fifty dollars (\$50) multiplied by the number of employees
 28 enrolled in the health benefit plan during the taxable year.

29 Sec. 10. (a) An employer may pay or provide reimbursement for
 30 all or part of the cost of a health benefit plan made available under
 31 section 9 of this chapter.

32 (b) An employer that pays or provides reimbursement under
 33 subsection (a) shall pay or provide reimbursement on an equal
 34 basis for all full-time employees who elect to participate in the
 35 health benefit plan.

36 Sec. 11. (a) If the amount determined under section 9 of this
 37 chapter for a taxpayer in a taxable year exceeds the taxpayer's
 38 state tax liability for that taxable year, the taxpayer may carry the
 39 excess over to the following taxable years. The amount of the credit
 40 carryover from a taxable year shall be reduced to the extent that
 41 the carryover is used by the taxpayer to obtain a credit under this
 42 chapter for any subsequent taxable year. A taxpayer is not entitled
 43 to a carryback.

44 (b) A taxpayer is not entitled to a refund of any unused credit.

45 Sec. 12. If a pass through entity does not have state income tax
 46 liability against which the tax credit may be applied, a shareholder

or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 14. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four (24) consecutive months beginning on the day after the last day of the taxable year in which the taxpayer first offers the health benefit plan.

(b) If the taxpayer terminates the health benefit plan before the expiration of the period required under subsection (a), the taxpayer shall repay the department the amount of the credit received under section 9 of this chapter.

Sec. 15. (a) An employee of a taxpayer that claims a credit under this chapter shall include in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) the employee's eligible benefits for:

- (1) the first taxable year in which the taxpayer offers the health benefit plan; and
- (2) the taxable year immediately following the first taxable year in which the taxpayer offers the health benefit plan.

An employee's eligible benefits are not included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the taxable years following the taxable year described in subdivision (2).

(b) A taxpayer that claims a credit under this chapter shall notify each of the taxpayer's employees of the amount included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer provides the employee with the employee's W-2 federal income tax withholding statement for the taxable year."

Page 44, between lines 31 and 32, begin a new paragraph and insert:
"SECTION 28. [EFFECTIVE JANUARY 1, 2007] (a) IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2006.

(b) IC 6-3.1-31, as added by this act, applies only to taxable years beginning after December 31, 2006."

- 1 Renumber all SECTIONS consecutively.
 (Reference is to HB 1392 as printed January 20, 2006.)

Representative Orentlicher